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SENSITIVE

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JUSTICE FOR OPDAT R LIPMAN

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SUBJECT: COLLABORATING ON INTELLECTUAL PROPERTY RIGHTS ENFORCEMENT  
IN TRINIDAD AND TOBAGO

REF: (A) 07 Port of Spain 320 (B) 08 Port of Spain 060  
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11. (U) SUMMARY: In collaboration with the U.S. Department of Justice and Trinidad and Tobago's Ministry of Legal Affairs and the Office of the Attorney General, Embassy Port of Spain coordinated a successful three-day INL-funded intellectual property rights (IPR) enforcement workshop. The event brought together government officials and private sector representatives to design anti-piracy strategies, taking into account the limited resources available to investigate and prosecute IPR crimes. While impediments to GOTT interagency collaboration were evident, participants were able to hash out workable enforcement programs, producing a 25-page enforcement handbook and displaying a commitment to continued collaboration. END SUMMARY.

12. (U) On March 11, the Director of Public Prosecution, Geoffrey Henderson; the Minister of Legal Affairs, Peter Taylor; and Ambassador Austin kicked off a three-day Intellectual Property Rights (IPR) enforcement workshop coordinated by the U.S. Department of Justice's Office of Overseas Prosecutorial Development, Assistance and Training (DOJ/OPDAT), the Ministry of Legal Affairs, the Office of the Attorney General, and the Embassy. Participants from eleven GOTT offices and a number of private sector organizations as well as media representatives listened as the opening speakers highlighted the importance of protecting intellectual property rights.

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Developing Workable Enforcement Protocols  
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13. (U) Following the opening ceremony, DOJ/OPDAT officials facilitated a discussion about the most prevalent forms of piracy in Trinidad and Tobago. In attendance were representatives from the Police Service, Office of the Director of Public Prosecution (DPP), Office of the Solicitor General, Office of the Chief Parliamentary Counsel, Bureau of Inland Revenue (BIR), Bureau of Standards, Customs and Excise Division, Consumer Affairs Division, Microsoft, Pfizer, Carhome Entertainment, and the Copyright Association of Trinidad and Tobago (COTT). Participants agreed to discuss several critical areas in greater detail, including the importation of blank CDs/DVDs, counterfeit pharmaceuticals and circuit breakers, as well as the distribution of pirated software, CDs and DVDs by street vendors as well shops.

14. (U) DOJ/OPDAT facilitator, Robert Lipman, probed each of these problem areas, working with the participants to outline the flow of goods to the market and identify leverage points, such as customs and financial records, that could be used by law enforcement to

identify IPR violators. The participants then worked in small groups to develop step-by-step protocols for investigating these IPR crimes. The workshop facilitators, including Lipman, a retired UK police official, and a representative from DOJ's Computer Crimes and Intellectual Property Section, assisted in this exercise.

¶15. (U) While impediments to interagency collaboration and enforcement were evident during the handbook's development, participants were able to hash out workable enforcement programs. The workshop yielded a twenty-five page handbook with IPR enforcement protocols, an IPR communications strategy, and guidance on investigation and prosecution of IPR cases.

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Barriers to Effective Enforcement  
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¶16. (SBU) The workshop highlighted several barriers to effective enforcement. The criminal justice system lacks sufficient resources to fight crime generally and piracy specifically. The country has an estimated 9,000 police officers for a population of 1.3 million and only nine high court judges to try major cases. With almost 100 murders to date in 2008, law enforcement is focused on violent crime. Crackdowns on piracy have come under public scrutiny for diverting resources from violent crimes and for potentially creating more criminals by putting street vendors out of business.

¶17. (SBU) IPR case law is thin and thus judges have little precedent to refer to when trying piracy cases. Prosecutors expressed frustration at judges' tendency to ignore IPR crimes due to the general lack of familiarity with their legal merits. The Copyright Amendment Bill, now before the House of Representatives, may help address this situation by clarifying judicial powers (reftels B and C).

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¶18. (SBU) With access to goods entering the country, the Customs and Excise Division is in a position to provide critical information to inform piracy investigations. During the workshop, Customs officials were hesitant to commit to any information sharing protocols. Their attitude was in sharp contrast to that of their BIR counterparts who were willing to assist in the investigation of tax records of suspected pirates and their suppliers. While the issue was eventually resolved by the Controller's decision to allow for information exchange between agencies, participants were clearly frustrated by the hesitation of Customs' representatives.

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Benefits of Education and Communication  
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¶19. (U) Focusing on pirated CDs/DVDs, the public debate over piracy in T&T has turned towards the social welfare of the "innocent" criminal as well as the appropriate allocation of limited law enforcement resources (reftel C). The group's discussion of pirated software and counterfeit circuit breakers, however, helped educate participants about the nature and extent of piracy's impacts on public health and safety. Better informed, law enforcement officials will now be able to justify the use of limited resources in the fight against piracy to their superiors as well as the public. In fact, the group developed a communications strategy to educate others about the impact of various forms of piracy.

¶11. (U) Private sector participants expressed interest in working closely with law enforcement to combat piracy. The representatives from COTT and Carihome conduct raids with police, helping to identify pirated materials. Pfizer also actively communicates with the Ministry of Health when it is aware of possible counterfeit shipments entering the country. The connections made at the workshop between law enforcement agencies and private sector representatives will help strengthen enforcement mechanisms.

¶12. (SBU) COMMENT: At the conclusion of the workshop, participants discussed the steps required to gain buy-in for both the IPR enforcement handbook and greater interagency collaboration. The

majority of the participants did not feel empowered to carry the mandate further than the workshop. However, they were willing to communicate with their superiors to recommend the issuance of "directives" authorizing protocol implementation and interagency cooperation. Going forward, Post will follow up not only with workshop participants but also with key officials within the Ministry of Legal Affairs, Ministry of National Security, and the Office of the Attorney General to try to ensure that the progress achieved at the workshop leads to stronger enforcement. Given the difficulty of interagency communication and hesitation of some agencies to fully commit to the initiative, it will be a challenge to ensure ongoing dialogue and cooperation.

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